

ROBERTA CROSS GUNS  
Special Assistant Attorney General  
Montana State Auditor  
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Helena, MT 59601  
406-444-2040

BEFORE THE STATE AUDITOR  
AND COMMISSIONER OF INSURANCE  
HELENA, MONTANA

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IN THE MATTER OF:

BART MURNION, individually and in his  
capacity as a Montana licensed insurance producer,

Respondent.

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)  
) CASE NO. INS-2006-67  
)  
) ORDER FOR TEMPORARY CEASE  
) AND DESIST  
)  
)

The Commissioner of Insurance of the State of Montana (Commissioner), pursuant to the authority of the Insurance Code of Montana, §§ 33-1-101, et seq., Mont Code Ann. (2005), hereby issues the following allegations of fact, proposed conclusions of law, ORDER and NOTICE OF RIGHT TO A PUBLIC hearing to Respondent Bart Murnion, named above for alleged violations of the Montana Insurance Code.

### ALLEGATIONS OF FACT

1. Respondent Murnion is licensed in Montana to sell property and casualty insurance. He currently is not licensed to sell life or annuity products. Further, Murnion does not have an appointment with Allianz Life Insurance Company of North America (Allianz Life).

2. The Department received a complaint from a Montana citizen on or about May 3, 2006. The complainant indicated Murnion had come to complainant's home in an attempt to sell complainant and complainant's spouse an equity indexed annuity identified as "MasterDex 5 Annuity", an Allianz Life product. Murnion proposed funding the annuity with funds from complainant's and complainant's spouse's 401(k) fund. Complainant is recently retired, but complainant's spouse continues to be employed.

3. Murnion held himself out as a financial advisor to the complainant. Murnion provided a business card to complainant indicating Murnion works for or is a company called "Sentinel Financial, LLC" and that Murnion is a "Certified Senior Advisor".

4. Murnion told complainant and complainant's spouse that the annuity product he offered through Allianz Life was guaranteed by the State of Montana and because the State of Montana provides this guarantee, they would not risk their principal.

5. Murnion told complainant that the Allianz Life annuity would pay a return of 2.65% on complainant's investment.

6. Murnion told complainant that Murnion charged a \$1500 fee for his advice and that complainant could pay that in two equal payments of \$750 each.

7. Murnion told complainant that Murnion was involved in the securities industry in multiple states.

8. Murnion told complainant that Murnion would return to Montana on or about May 11, 2006 and expected complainant to have gathered all financial information for Murnion's review, including but not

limited to such information as any IRA accounts held by complainant and complainant's spouse, any certificates of deposit either complainant or complainant's spouse held, and savings and other bank accounts.

Based on the foregoing allegations of fact, the Department submits the following:

### CONCLUSIONS OF LAW

1. The Montana State Auditor is the Commissioner of Insurance (Commissioner) pursuant to § 33-1-301, MCA.
2. The Montana Insurance Department is under the control and supervision of the Commissioner pursuant to §§ 2-15-1902 and 33-1-301, MCA.
3. The Commissioner shall administer the Insurance Department to protect consumers, pursuant § 33-1-311, MCA.
4. Respondent Murnion violated §33-1-1302 (1), MCA, when, in the course of offering insurance in the form of an equity indexed annuity, Murnion misrepresented the material fact that the principal invested would be guaranteed by the State of Montana, knowing that material fact to be untrue and for the purpose of having a customer rely on this misrepresentation to the customer's detriment.
5. Respondent Murnion violated §33-1-1302 (1), MCA, when, in the course of offering insurance in the form of an equity indexed annuity which is a life insurance product, Murnion misrepresented the material fact that Murnion did not have a license to sell any life insurance products, with reckless indifference as to whether this fact was true and for the purpose of having a consumer rely on Murnion's misrepresentation to the consumer's detriment.
6. Respondent Murnion violated §33-1-1302 (1), MCA, when, in the course of offering insurance in the form of an equity indexed annuity identified as Allianz Life's

MasterDex 5, which is a life insurance product, Murnion misrepresented the material fact that Murnion did not have an appointment with Allianz Life, with reckless indifference as to whether this fact was true and for the purpose of having a consumer rely on Murnion's misrepresentation to the consumer's detriment.

7. Respondent Murnion violated §33-17-201, MCA by soliciting sales for life insurance in the form of an equity indexed annuity without proper licensure prior to such solicitation.

8. Respondent Murnion violated §33-17-236, MCA, by claiming to represent Allianz Life without proper appointment to represent this insurer in Montana

9 Respondent Murnion violated §33-10-210 (1), MCA when he indicated the Allianz Life product was guaranteed by the State of Montana

10. Respondent Murnion violated §33-18-212, MCA, when he indicated there was a charge of \$1500 for his services as an insurance producer.

11 Respondent Murnion violated §33-17-1001 (1) (c), MCA by acting in violation of the Insurance Code when he misrepresented his capacity to sell life insurance and his appointment with an insurer and the terms of the insurance contract.

12. Respondent Murnion violated §33-17-1001 (f), MCA by using fraudulent and dishonest practices in the conduct of his affairs under his insurance producers license.

13. Respondent Murnion violated §33-17-1001 (g) by misrepresenting the terms of an insurance contract when he indicated it was guaranteed by the State of Montana.

### ORDER

Pursuant to §33-1-318(1)(a), MCA, it appears to the Commissioner that the above named Respondent have engaged or are about to engage in an act or practice constituting a violation of the

Insurance Code of Montana, and pursuant to §33-1-311, MCA, it is in the public interest to ORDER

Respondent to CEASE AND DESIST from the following actions:

- 1 Any actions or activity wherein Respondent acts in violation of the Montana Insurance Code;
- 2 Any act that constitutes a misrepresentation or untrue statement to an insurance consumer, in violation of §33-1-1302, MCA;
3. Any act that constitutes an unethical or dishonest practice made while conducting insurance business pursuant to Respondent's insurance producer's license, in violation of §33-17-1302, MCA.

Pursuant to §33-17-1001, MCA, it appears to the Commissioner that the above named Respondent have engaged or are about to engage in an act or practice constituting a violation of the Insurance Code of Montana, including acting in a fraudulent and dishonest manner while conducting insurance business pursuant to Respondent's Montana insurance producer's license, and the Commissioner hereby SUSPENDS Bart Murnion's Montana insurance producer's license pending resolution of this matter.

#### NOTICE


Respondent is notified that the Commissioner has issued this temporary cease and desist order. If Respondent wishes to contest the allegations herein, he shall make a written request for a hearing to Roberta Cross Guns of this office within fifteen (15) days of receipt of this order. The hearing shall then be held within thirty (30) days of the Commissioner's receipt of the hearing request unless otherwise agreed by the parties. If no hearing is requested within fifteen (15) days of receipt of this order by Respondent, and the Commissioner orders none, this order shall become permanent.

Should you request a hearing, you have the right to be accompanied, represented and advised by counsel. If the counsel you choose has not been admitted to the practice of law in the State of Montana,

he or she must comply with the requirements of Application of American Smelting and Refining Co.,  
164 Mont. 139, 520 P.2d 103 (1973)

DATED this 9th day of May 2006.

JOHN MORRISON  
State Auditor and  
Commissioner of Securities

  
By \_\_\_\_\_

Alicia Pichette  
Deputy Insurance Commissioner